**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR**

**WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929**

**OP.No. 16918 of 2002(L)**
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**PETITIONER:**
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**A.BALAN, SON OF APPU,**
**C/O.GENERAL SECRETARY,SRLU, EDAPPALLY NORTH,**
**COCHIN-24.**

**BY ADV. SRI.B.GOPAKUMAR,**
**SMT.CHINCY GOPAKUMAR.**

**RESPONDENTS:**
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1. **SR.DIVISIONALPERSONNEL OFFICER,**
   **SOUTHERN RAILWAY,PALAKKAD**

2. **UNION OF INDIA,REPRESENTED BY THE**
   **GENERAL MANAGER,SOUTHERN RAILWAY,MADRAS-3.**

3. **SR.DIVISIONAL ELECTRICAL ENGINEER,**
   **SOUTHERN RAILWAY,PALAKKAD.**

**BY ADV.SRI.VARGHESE P.THOMAS, SR.SC,RAILWAYS,**
**SRI.M.C.CHERIAN,SR.SC.,RAILWAYS.**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ORDER ON C.M.P. NO. 28818/2002 IN O.P. NO. 16918/2002**

**DISMISSED**

**13/06/2007.** **SD/- T.R.RAMACHANDRAN NAIR, JUDGE.**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE ORDER IN C.P. (C) . NO. 26/95 DTD. 25/04/2002 IN THE LABOUR COURT, KOZHIKODE.**

**EXT.P.2: COPY OF THE ORDER IN O.A. NO. 884/94 DTD. 06/03/1995 IN CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.**

**//TRUE COPY//**

**prv.**

**T.R.RAMACHANDRAN NAIR, J.**

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**O.P.No.16918 of 2002-L.**

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**Dated this the 13th day of June, 2007.**

**J U D G M E N T**

**The petitioner is challenging Ext.P1 order passed by the Labour Court, Kozhikode in an application filed under Section 33(C)(2) of the Industrial Disputes Act. The petitioner was initially engaged in the Railway as a substitute Khalasi. He was posted as Tinsmith skilled Gr.III on 7-12-1987. He was reverted as Khalasi since there was no post of Tinsmith in the lower scale of Rs.950-1500. The petitioner approached the Central Administrative Tribunal. The Railway Administration was directed to consider his representation and order of revision was ordered to be kept in abeyance till the disposal of the same. It was rejected and then he filed OA.No.884/1994 and an interim order of stay was granted and he continued in the post. The Central Administrative Tribunal in OA.No.884/1994 quashed the reversion order and directed Railway Administration to make suitable arrangements to allow the petitioner to continue as Tinsmith. He was not give the accommodation, but one Natarajan was given the promotion. The petitioner claimed before the Labour Court that he is entitled to get the benefit of**

**Tinsmith Grade II with effect from 1-4-1983 and Tinsmith Grade I with effect from 1-7-1985. After hearing the parties the petition was dismissed by the Labour Court. This was done by it based on the orders of Central Administrative Tribunal in OA.No.884/1994**

**2. Heard counsel for parties. It was argued by the learned counsel for the petitioner that the approach made by the Labour Court is not correct and that the evidence adduced by the petitioner particularly Exts.P10 to P13 have not been considered or discussed by the Labour Court in arriving at the conclusion. It is stated that the duty diaries and work orders relied upon by the petitioner will definitely establish the claim of the petitioner for a re-computation of his benefits as prayed in the application. A reading of the order would show that the claim was rejected mainly based on the order passed by the Central Administrative Tribunal Ext.P2, which was Ext.P8 before the Labour Court. The petitioner's request is for a reconsideration of the issue in the light of the other documentary evidence produced before the Labour Court. It is also pointed out that the operative portion of Ext.P2 favours the claim of petitioner.**

**3. Since the entire aspects have not been considered by the Labour Court while considering the claim for re-computation, Ext.P1 is set aside and the matter is remitted back to the Labour Court for fresh disposal. Parties**

**will be allowed to adduce evidence either oral or documentary.**

**With the above direction, this writ petition is disposed of.**

**T.R.RAMACHANDRAN NAIR, JUDGE.**

***Kvs/-***